IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL REVISION APPLICATION NO.98/2001

Jose Luis Eleuterio Silveira
alias Jose Silveira
resident of Divar, Goa. .... Applicant.

Vs.

1. Jose Deodato Picardo son of Mathias Valentino Picardo, aged 60 years, alias Jose Picardo resident of Scarborough in the Municipality of Metropolitan Toronto.

2. Maria Philomena Picardo, alias Philomena Picardo daughter of Juao Arnolfo Fernandes and wife of Jose Deodato Picardo aged 53 years, resident of Carborough in the Municipality of Metropolitan Toronto.

3. Maria Picardo, aged 41 years, son of Mathias Valentino Picardo resident of Napean in the Regional Municipality of Ottawa.

4. Maryann Picardo, aged 43 years, daughter of Mathias Valentino Picardo resident of Scarborough in the Municipality of Metropolitan Toronto.

5. Guilhermina Hasmi, aged 45 years, daughter of Mathias Valentino Picardo alias Gimin Hashmi resident of Scarborough in the Municipality of Metropolitan Toronto.

6. Mary Josephina Picardo alias Mary Picardo, aged 80 years, widow of Mathias Valentino Picardo resident of Scarborough in the Municipality of Metropolitan Toronto.

All represented by their attorney Custodio Matias Menezes, son of Cosme Caetano Menezes, aged 61 years, residing at Benaulim of Salcete, South Goa. ... Respondents.

Mr. R.G. Ramani, Advocate for the applicant.

None for the respondents.

CORAM : F.I. REBELLO, J.

DATE : JULY 17, 2003.

ORAL JUDGMENT:

This revision is preferred against the order dated 1st February, 2001. The learned trial Court had raised the following question :

> "A short question mooted for decision whether a counter claim can be allowed when the plaint is amended by the plaintiff"

The trial Court has held that in the present case, the defendant can file independent suit against the plaintiffs. However, in the operative part of the order, dismissed the counter claim filed by the defendant. It is clear considering the question framed, all that the trial Court has set out is that the counter claim cannot be allowed and that it is open to the defendant to file a separate suit. With that clarification, the Civil Revision Application stands disposed of.

F.I. REBELLO, J.

ssm.